

## **SECTION 103 -- AWARD AND EXECUTION OF THE CONTRACT**

### **103.01 -- Award of Contract**

The award of the contract will be made in Lincoln, Nebraska, by the Engineer to the lowest responsible bidder whose proposal complies with all the requirements prescribed. The award will not be made until all necessary investigations have been made into the responsibility of the bidder to whom it is proposed to award the contract; but, in any case, the award shall be made within 30 days after the opening of the proposals. The right is reserved to limit the work awarded one Contractor to the amount that he/she is considered capable of handling, taking into account both his/her capacity to perform work and contracts in force. The successful bidder will be notified by letter, mailed to the address shown on his/her proposal, that his/her bid has been accepted and that he/she has been awarded the contract.

### **103.02 -- Cancellation of Award**

The Department reserves the right to cancel the award of any contract any time before the execution of the said contract by all parties without any liability against the Department.

### **103.03 -- Requirements with Respect to Contract Bond**

The bidder to whom the contract is awarded shall furnish within 30 days after the award a contract bond in a sum equal to the full amount of the contract. The contract bond must be executed on the form furnished by the Department of Roads. Contract bonds must be executed by corporations authorized to contract as a surety in Nebraska.

### **103.04 -- Execution of Contract**

The contract shall be signed by the successful bidder and returned, together with a satisfactory bond, within 30 days from the date of award. The Department will not execute a contract until after satisfactory bonds, certificates of insurance, and other required documents have been received. No proposal shall be considered binding upon the Department until the execution of the contract.

### **103.05 -- Failure to Execute Contract**

1. A contract is not executed if the Contractor:
  - a. Fails to file an acceptable performance bond within 30 days from the date of award.
  - b. Fails to complete and submit all required forms and documents within 14 days after the opening of bids.
  - c. Gives written notice expressing an intent not to execute the contract.
2. When a contract is not properly executed, the Department may:
  - a. Annul the award and cancel the bid with forfeiture of the proposal guaranty (forfeiture not imposed as a penalty, but in liquidation of damages sustained).

b. Proceed with the execution of the contract after the 30-day period when all required documents have been correctly submitted and adjust the bidder's prequalification rating downward as specified in Subsection 102.02, Paragraph 2.

c. Award to the lowest succeeding responsive bidder and recover the differences from the defaulting Contractor.

**103.06 -- Special Arrangements**

The right is reserved, unless otherwise stated in the proposal, to consider bids and award separate contracts for each group of items as shown in the proposal. All awards under these *Specifications* are subject to the approval of the Department before becoming effective as contracts.

**103.07 -- Affirmative Action**

The Nebraska Department of Roads, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the contract entered into will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, sex, or national origin.

**103.08 -- Material Guaranty**

Before any contract is awarded, the successful bidder may be requested to furnish a complete statement of the origin, composition, and manufacture of any materials to be used in the construction of the work, together with samples which may be subjected to the tests provided for in these *Specifications* to determine their quality and fitness for the work.